

## **REMARKS**

[0003] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-25 are presently pending. Claims amended herein are 1 and 13. Claims withdrawn or cancelled herein are 2 and 20-25. New claims added herein are none.

### **Statement of Substance of Interview**

[0004] The Examiner graciously talked with me—the undersigned representative for the Applicant—on October 10, 2007. Applicant greatly appreciates the Examiner's willingness to talk. Such willingness is invaluable to both of us in our common goal of an expedited prosecution of this patent application.

[0005] During the interview, I discussed how the claims differed from the cited art, namely Mittal and DeMenthon. Without conceding the propriety of the rejections and in the interest of expediting prosecution, I also proposed several possible clarifying amendments.

[0006] The Examiner indicated that she would need to review the cited art more carefully and provide better reasoning to sustain her rejection of the claims, and requested that the proposed amendments be presented in writing.

[0007] Applicant herein amends the claims in the manner discussed during the interview. Accordingly, Applicant submits that the pending claims are allowable over the cited art of record for at least the reasons discussed during the interview.

**Expectation that the Next Action will not be Final**

**[0008]** Applicant submits that all pending claims are in condition for allowance. If the examiner feels otherwise and believes that another action on the merits is necessary, then Applicant expects such an action would be Non-Final.

**[0009]** According to 37 CFR § 1.113 and MPEP 706.07, the "examiner should never lose sight of the fact that in every case the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal." "The invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied."

**[0010]** In accordance with 37 CFR § 1.113 and MPEP 706.07(a), Applicant respectfully submits that finality would be premature for the next action because for the following reasons:

- The Applicant took no action (e.g., amendment or filing of an IDS with a fee) herein that necessitates that the Examiner perform a new search or introduce a new ground of rejection;
- This Office Action failed to provide specific claim rejections and/or reasoning for those rejection;

No Action necessitating new grounds for rejection or new search

**[0011]** The amendments to claims 1 and 13 are limited to incorporating the recitation of dependent claim 2 (or are of substantially the same subject matter). Consequently, one or more claims presented herein have already been examined in the Office Action. Furthermore, Applicant explains herein why these already-examined claims differ from the cited art of record. Therefore, in accordance with 37 CFR § 1.113 and MPEP 706.07(a), finality for the next action would be premature.

Rejecting claims without specific support or reasoning

**[0012]** While the Office Action provides a blanket rejection that includes claim 2, the Office Action fails to address claim 2 with specificity. In other words, the Office Action does not cite any references (alone or in combination) that disclose all of the elements of claim 2 and in their particular claimed arrangement. Furthermore, the Office Action fails to provide any reason why one of ordinary skill in the art would combine the cited references.

**[0013]** This list is not intended to be exhaustive. Rather, it is intended to illustrate examples of distinguishing claim language discussed in the Applicant's prior response, but not addressed by the examiner in this Action and in its prior Action.

### Applicant's Right to Adequately Respond

[0014] With few exceptions, the Examiner provides little to no explanation as to how the components of the cited reference correspond to the actual claim language. Furthermore, the Office provides little or no explanation as to how the operation of components of the cited reference corresponds to that of the actual claim language.

[0015] Since the Examiner has provided little or no reasoning for its rejections, Applicant can do little more than gainsay. Applicant is forced to make assumptions and guesses as to the Examiner's specific reasoning. Therefore, Applicant submits that it has been denied its right to adequately and effectively respond to the Office's rejections.

[0016] In *In re Lee*, 61 USPQ2d 1430 (CA FC 2002), the Federal Circuit explained the following on page 1433:

The Administrative Procedure Act, which governs the proceedings of administrative agencies [such as the Patent and Trademark Office] and related judicial review, establishes a scheme of "reasoned decisionmaking." Not only must an agency's decreed result be within the scope of its lawful authority, but the process by which it reaches that result must be logical and rational. Allentown Mack Sales and Service, Inc. v. National Labor Relations Bd., 522 U.S. 359, 374 (1998) (citation omitted).

This standard requires that the agency not only have reached a sound decision, but have *articulated the reasons for that decision*. The reviewing court is thus enabled to perform meaningful review within the strictures of the APA, for the court will have a basis on which to determine "whether the decision was based on the relevant factors and whether there has been a clear error of judgment."

Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402, 416 (1971). [emphasis added]

**[0017]** Applicant submits that the Office has not articulated the reasons for its decision-making here. Furthermore, according to the reasons and facts given above and to 37 CFR § 1.113 and MPEP 706.07, Applicant respectfully submits that no clear issues has been developed between the applicant and the examiner for each pending claim so that such issues would be ready for appeal if the next action is made final. Accordingly, Applicant respectfully requests that the next action—if not a Notice of Allowance—be Non-Final.

## **Substantive Matters**

### **Claim Rejections under §§ 102 and/or 103**

**[0018]** Claims 1-19 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Publication No. 2005/0286764 to Mittal in light of DeMenthon (Spatio-Temporal Segmentation of Video by Hierarchical Mean Shift Annalysis, July 2002). Applicant respectfully traverses these rejections but proposes the following amendments to advance prosecution of the application.

**[0019]** In light of the amendments presented herein and the decisions/agreements reached during the above-discussed Examiner interview, Applicant submits that these rejections are moot. Accordingly, Applicant asks the Examiner to withdraw these rejections.

**[0020]** **Independent claim 1** recites a method of stylizing video, comprising:

performing a spatio-temporal segmentation analysis on the video to identify three dimensional volumes of contiguous pixels having [a] similar [characteristic] color;

receiving an input identifying a group of the three dimensional volumes; and

identifying the group of three dimensional volumes as a single semantic region.

**[0021]** The cited art does not teach nor suggest performing a spatio-temporal segmentation analysis on the video to identify three dimensional volumes of contiguous pixels having similar colors. The Examiner points to Mittal as teaching this element with reference to dependent claim 2, which has been incorporated into claim 1 to further distinguish claim 1 from the cited art. The Examiner specifically points to Figure 9 of Mittal as teaching the color representation. Applicant respectfully traverses this analysis.

**[0022]** Applicant would initially point out that that figure 9 is illegible in its present state. Figure 9 supposedly shows an embodiment of Mittal having input frames and detection components depicted in at least three colors (pink, green and white). (See Paragraph [0039]). Because the drawings are in black and white, it is impossible to determine colors. Further, because of the quality of the images in the electronic file, it is impossible to determine if Figures 9A and 9B depict anything other than misshapen blobs.

**[0023]** Additionally, independent claim one requires that “performing a spatio-temporal segmentation analysis on the video to identify three dimensional volumes of contiguous pixels having [a] similar [characteristic] color”. Mittal does not teach this element. Instead, Figure 9 of represents results from a simulated sequence wherein residuals r1 and r2 are represented by the colors green and pink respectively. These are arbitrary colors chosen to represent the residuals of the detection measures. Any segmentation was not based upon colors.

**[0024]** Mittal’s invariant transformation is determined by measuring image pixel intensity that is transformed and evaluated in illumination-invariant space. (See at least paragraphs [0019], [0021], [0024]-[0025]). The intensity of an image pixel is different than the pixel color. As such, Mittal cannot teach each and every element of independent claim 1.

**[0025]** Independent claim 13 has been amended to include a similar element. As such, independent claim 13 would be allowable for the aforementioned reasons as shown above with relation to independent claim 1.

### **Dependent Claims**

**[0026]** In addition to its own merits, each dependent claim is allowable for the same reasons that its base claim is allowable. Applicant requests that the Examiner withdraw the rejection of each dependent claim where its base claim is allowable.

## Conclusion

[0027] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call/email me or my assistant at your convenience.

Respectfully Submitted,

Dated: 2007.11.05

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